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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,896	12/12/2000	Carlos Pinzon	05725.0806-00	5467

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EXAMINER

RAJGURU, UMAKANT K

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on Apr 04, 2002 (paper no 6)
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-299 is/are pending in the application.
- ☐ Of the above claim(s) 282-285 and 287 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-281, 286 and 288-299 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-813
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

1. An IDS (paper no. 5) and an amendment (paper no. 6) have been filed on Mar 20, 2002 and April 04, 2002 resp.
2. Applicant's election with traverse of group I, claims 1-281, 286 and 288-299 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that there is no serious burden to search and examine all claims. This is not found persuasive because the applicant's argument against the restriction is based on a conclusion, (favorable to the applicants) without any supportive evidence. A search for (claimed) composition may not necessarily lead to (claimed) product/s, in which case additional search for product/s shall be mandatory.

The requirement is still deemed proper and is therefore made FINAL.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-281, 286 and 288-299 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crotty et al (USP 5302378) in view of Pavlin et al (USP 5783657) and Patel et al (USP 6165454).

MR Crotty discloses cosmetic compositions comprising (i) a C₃-C₂₄ ~~hydroxyl~~ substituted ketone or aldehyde, (ii) an anionic silicone copolyol and (iii) a vehicle (col. 2, lines 20-29). Suitable vehicles are described in col. 3, line 31 to col. 4, line 46. Composition includes, sodium carboxyl methylcellulose, hydroxyalkyl cellulose etc (col. 4, lines 49-61), polyethylene and polyamides (col. 5, line 33). Emulsifiers and surfactants may be included (col. 4, lines 62-68) together with fatty alcohols (col. 5, lines 12-21).

Crotty does not specifically mention the polymer of instant claim 28, and gum of instant claim 64.

Pavlin discloses ester-terminated polyamides of fatty acids. These polyamides, as represented by formulae in cols. 3 and 4 read on the one of instant claim 28.

Patel discloses stabilized hair products comprising (A) a surfactant, (B) conditioning agent, (C) acrylic stabilizer and (D) water or aqueous medium (col. 2, line 43 to col. 3, line 17). A conditioning agent can be a cationic polymer like galactomannan (col. 24, lines 6-9).

Therefore it would have been obvious to include in the composition of Crotty (a) the specific polyamide of Pavlin in order to produce a transparent, gel-like cosmetic composition with desirable rheological properties, (b) conditioning agent of Patel in


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order to have a stable composition because otherwise water insoluble silicone oil (in the composition of Crotty) makes that composition unstable.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umakant Rajguru whose telephone number is (703) 308-3224. The examiner can normally be reached on Monday to Friday from 9:30 Am to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Rajguru/LR
July 16, 2002


James J. Seidleck
Supervisory Patent Examiner
Technology Center 1700